38. The ophthalmic element of claim 36 wherein the functional layer comprises a light polarizing layer.

39. The ophthalmic element of claim 1 wherein the functional layer comprises a photochromic layer.

40 38. The ophthalmic element of claim 7 wherein the functional layer comprises a light polarizing layer.

41 39. The ophthalmic element of claim 23 wherein the functional layer comprises a light polarizing layer.

42 40. The ophthalmic element of claim 36 wherein the functional layer comprises a light polarizing layer.

41. The ophthalmic element of claim 24 wherein the functional layer comprises a light polarizing layer.

REMARKS CONCERNING THE AMENDMENTS

The above amendments have been made in an effort to more clearly define the present invention and to respond to issues raised in the Office Action. As claims 5, 7, 9, 13, 16, 20 and 23-35 were rejected only under the Judicially Created Doctrine of Obviousness-Type Double patenting, those claims, where necessary, were placed in independent form, incorporating all of the limitations of intervening claims. In some cases, dependency of claims rejected under 35 USC 102 and 103 were changed to dependency from claims rejected only under the Double Patenting issues. New claims 37-41 merely limit the functional layer to the second alternative (the photochromic layer rather than only the polarizing layer).

RESPONSE TO THE REJECTIONS

Claims 1, 3, 17 and 21 Were Rejected Under 35 U.S.C. 102(b) Over Schuler.

This rejection has been rendered moot by the cancellation of those claims or the amending of those claims to depend from claims previously rejected under only the Judicially Created Doctrine of Obviousness-Type Double Patenting.

Claims 1-4, 6, 8, 10-12, 14-15, 17-19 and 21-22 Were Rejected Under 35 U.S.C. 103 As Unpatentable Over Murata in View of Schuler

This rejection has been rendered moot by the cancellation of those claims or the amending of those claims so that they depend from claims previously rejected under only the Judicially Created Doctrine of Obviousness-Type Double Patenting.

Claims 1-35 Were Rejected Under the Judicially Created Doctrine of Obviousness-Type Double Patenting

This rejection has been overcome by the filing herewith of a Terminal Disclaimer with respect to U.S. Patent No. 5,827,614. All original claims not otherwise rejected on prior art (Claims 5, 7, 9, 13, 16, 20 and 23-35) are therefore patentable.

The Patentability of New Claims 36-41

These new claims depend from claims that were previously rejected under only the Judicially Created Doctrine of Obviousness-Type Double Patenting. As those claims are now allowable and all new claims depend from the presumptively allowable claims, all new claims are allowable.

CONCLUSION

All remaining claims are in condition for allowance. If there are any remaining issues, the Examiner is courteously requested to call the attorney of record for a telephone interview to resolve such issues.

Respectfully submitted,

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Date 31 October 2000

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to BOX AMENDMENTS, Assistant Commissioner of Patents, Washington, D.C. 20231 on October 31, 2000.

Name MARK A. LITMAN

Signature _____